

109TH CONGRESS
1ST SESSION

S. 864

To amend the Atomic Energy Act of 1954 to modify provisions relating to nuclear safety and security, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 20, 2005

Mr. INHOFE (for himself and Mr. VOINOVICH) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Atomic Energy Act of 1954 to modify provisions relating to nuclear safety and security, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Nuclear Safety and
5 Security Act of 2005”.

6 **SEC. 2. DEFINITION OF COMMISSION.**

7 In this Act, the term “Commission” means the Nu-
8 clear Regulatory Commission.

1 **SEC. 3. GENERAL PROVISIONS.**

2 Section 161 of the Atomic Energy Act of 1954 (42
3 U.S.C. 2201) is amended—

4 (1) by striking “SEC. 161” and all that follows
5 through “authorized to—” and inserting the fol-
6 lowing:

7 **“SEC. 161. GENERAL PROVISIONS.”;**

8 (2) in each of subsections a., b., c., d., e., f., h.,
9 i., j., m., n., o., p., s., t., v., and w., by inserting “In
10 carrying out the duties of the Commission, the Com-
11 mission may” after the subsection designation;

12 (3) in subsection u., by striking “(1) enter
13 into” and inserting “In carrying out the duties of
14 the Commission, the Commission may—

15 “(1) enter into”;

16 (4) in subsection x., by striking “Establish”
17 and inserting “In carrying out the duties of the
18 Commission, the Commission may establish”;

19 (5) in each of subsections a., b., c., d., e., f., h.,
20 j., m., n., s., and v., by striking the semicolon at the
21 end and inserting a period;

22 (6) in subsection o., by striking “; and” at the
23 end and inserting a period;

24 (7) in subsection t., by striking the semicolon at
25 the end; and

26 (8) by indenting each subdivision appropriately.

1 **SEC. 4. USE OF FIREARMS BY SECURITY PERSONNEL.**

2 The Atomic Energy Act of 1954 is amended by in-
3 serting after section 161 (42 U.S.C. 2201) the following:

4 **“SEC. 161A. USE OF FIREARMS BY SECURITY PERSONNEL.**

5 “(a) DEFINITIONS.—In this section, the terms ‘hand-
6 gun’, ‘rifle’, ‘shotgun’, ‘firearm’, ‘ammunition’, ‘machine-
7 gun’, ‘short-barreled shotgun’, and ‘short-barreled rifle’
8 have the meanings given the terms in section 921(a) of
9 title 18, United States Code.

10 “(b) AUTHORIZATION.—Notwithstanding subsections
11 (a)(4), (a)(5), (b)(2), (b)(4), and (o) of section 922 of title
12 18, United States Code, section 925(d)(3) of title 18,
13 United States Code, section 5844 of the Internal Revenue
14 Code of 1986, and any law (including regulations) of a
15 State or a political subdivision of a State that prohibits
16 the transfer, receipt, possession, transportation, importa-
17 tion, or use of a handgun, a rifle, a shotgun, a short-bar-
18 reled shotgun, a short-barreled rifle, a machinegun, a
19 semiautomatic assault weapon, ammunition for any such
20 gun or weapon, or a large capacity ammunition feeding
21 device, in carrying out the duties of the Commission, the
22 Commission may authorize the security personnel of any
23 licensee or certificate holder of the Commission (including
24 an employee of a contractor of such a licensee or certifi-
25 cate holder) to transfer, receive, possess, transport, im-

1 port, and use 1 or more such guns, weapons, ammunition,
 2 or devices, if the Commission determines that—

3 “(1) the authorization is necessary to the dis-
 4 charge of the official duties of the security per-
 5 sonnel; and

6 “(2) the security personnel—

7 “(A) are not otherwise prohibited from
 8 possessing or receiving a firearm under Federal
 9 or State laws relating to possession of firearms
 10 by a certain category of persons;

11 “(B) have successfully completed any re-
 12 quirement under this section for training in the
 13 use of firearms and tactical maneuvers;

14 “(C) are engaged in the protection of—

15 “(i) a facility owned or operated by a
 16 licensee or certificate holder of the Com-
 17 mission that is designated by the Commis-
 18 sion; or

19 “(ii) radioactive material or other
 20 property owned or possessed by a licensee
 21 or certificate holder of the Commission, or
 22 that is being transported to or from a fa-
 23 cility owned or operated by such a licensee
 24 or certificate holder, and that has been de-
 25 termined by the Commission to be of sig-

1 nificance to the common defense and secu-
 2 rity or public health and safety; and

3 “(D) are discharging the official duties of
 4 the security personnel in transferring, receiving,
 5 possessing, transporting, or importing the
 6 weapons, ammunition, or devices.

7 “(c) BACKGROUND CHECKS.—A person that receives,
 8 possesses, transports, imports, or uses a weapon, ammuni-
 9 tion, or a device under subsection (b) shall be subject to
 10 a background check by the Attorney General, based on
 11 fingerprints and including a background check under sec-
 12 tion 103(b) of the Brady Handgun Violence Prevention
 13 Act (Public Law 103–159; 18 U.S.C. 922 note) to deter-
 14 mine whether the person is prohibited from possessing or
 15 receiving a firearm under Federal or State law.

16 “(d) EFFECTIVE DATE.—This section takes effect on
 17 the date on which regulations are promulgated by the
 18 Commission, with the approval of the Attorney General,
 19 to carry out this section.”

20 **SEC. 5. FINGERPRINTING AND CRIMINAL HISTORY RECORD**
 21 **CHECKS.**

22 Section 149 of the Atomic Energy Act of 1954 (42
 23 U.S.C. 2169) is amended—

24 (1) in subsection a.—

1 (A) by striking “a. The Nuclear” and all
 2 that follows through “section 147.” and insert-
 3 ing the following:

4 “a.(1)(A)(i) The Commission shall require each indi-
 5 vidual or entity described in clause (ii) to fingerprint each
 6 individual described in subparagraph (B) before the indi-
 7 vidual described in subparagraph (B) is permitted access
 8 under subparagraph (B).

9 “(ii) The individuals and entities referred to in clause
 10 (i) are individuals and entities that, on or before the date
 11 on which an individual is permitted access under subpara-
 12 graph (B)—

13 “(I) are licensed or certified to engage in an ac-
 14 tivity subject to regulation by the Commission;

15 “(II) have filed an application for a license or
 16 certificate to engage in an activity subject to regula-
 17 tion by the Commission; or

18 “(III) have notified the Commission in writing
 19 of an intent to file an application for licensing, cer-
 20 tification, permitting, or approval of a product or ac-
 21 tivity subject to regulation by the Commission.

22 “(B) The Commission shall require to be
 23 fingerprinted any individual who—

24 “(i) is permitted unescorted access to—

25 “(I) a utilization facility; or

1 “(II) radioactive material or other property
2 subject to regulation by the Commission that
3 the Commission determines to be of such sig-
4 nificance to the public health and safety or the
5 common defense and security as to warrant
6 fingerprinting and background checks; or

7 “(ii) is permitted access to safeguards informa-
8 tion under section 147.”;

9 (B) by striking “All fingerprints obtained
10 by a licensee or applicant as required in the
11 preceding sentence” and inserting the following:

12 “(2) All fingerprints obtained by an individual or en-
13 tity as required in paragraph (1)”;

14 (C) by striking “The costs of any identi-
15 fication and records check conducted pursuant
16 to the preceding sentence shall be paid by the
17 licensee or applicant.” and inserting the fol-
18 lowing:

19 “(3) The costs of an identification or records check
20 under paragraph (2) shall be paid by the individual or en-
21 tity required to conduct the fingerprinting under para-
22 graph (1)(A).”; and

23 (D) by striking “Notwithstanding any
24 other provision of law, the Attorney General
25 may provide all the results of the search to the

1 Commission, and, in accordance with regula-
 2 tions prescribed under this section, the Com-
 3 mission may provide such results to licensee or
 4 applicant submitting such fingerprints.” and in-
 5 serting the following:

6 “(4) Notwithstanding any other provision of law—

7 “(A) the Attorney General may provide any re-
 8 sult of an identification or records check under para-
 9 graph (2) to the Commission; and

10 “(B) the Commission, in accordance with regu-
 11 lations prescribed under this section, may provide
 12 the results to the individual or entity required to
 13 conduct the fingerprinting under paragraph
 14 (1)(A).”;

15 (2) in subsection c.—

16 (A) by striking “, subject to public notice
 17 and comment, regulations—” and inserting “re-
 18 quirements—”; and

19 (B) in paragraph (2)(B), by striking
 20 “unescorted access to the facility of a licensee
 21 or applicant” and inserting “unescorted access
 22 to a utilization facility, radioactive material, or
 23 other property described in subsection
 24 a.(1)(B)”;

1 (3) by redesignating subsection d. as subsection
2 e.; and

3 (4) by inserting after subsection c. the fol-
4 lowing:

5 “d. The Commission may require a person or indi-
6 vidual to conduct fingerprinting under subsection a.(1) by
7 authorizing or requiring the use of any alternative biomet-
8 ric method for identification that has been approved by—

9 “(1) the Attorney General; and

10 “(2) the Commission, by regulation.”.

11 **SEC. 6. UNAUTHORIZED INTRODUCTION OF DANGEROUS**
12 **WEAPONS.**

13 Section 229 of the Atomic Energy Act of 1954 (42
14 U.S.C. 2278a) is amended—

15 (1) by striking “SEC. 229, TRESPASS UPON
16 COMMISSION INSTALLATIONS.—” and inserting the
17 following:

18 **“SEC. 229. TRESPASS ON COMMISSION INSTALLATIONS.”;**

19 (2) by adjusting the indentations of subsections
20 a., b., and c. so as to reflect proper subsection in-
21 dentations; and

22 (3) in subsection a.—

23 (A) in the first sentence, by striking “a.
24 The” and inserting the following:

25 “a.(1) The”;

1 (B) in the second sentence, by striking
 2 “Every” and inserting the following:

3 “(2) Every”; and

4 (C) in paragraph (1) (as designated by
 5 subparagraph (A))—

6 (i) by striking “or in the custody” and
 7 inserting “in the custody”; and

8 (ii) by inserting “, or subject to the li-
 9 censing authority of the Commission or
 10 certification by the Commission under this
 11 Act or any other Act” before the period.

12 **SEC. 7. SABOTAGE OF NUCLEAR FACILITIES, FUEL, OR DES-**
 13 **IGNATED MATERIAL.**

14 (a) IN GENERAL.—Section 236a. of the Atomic En-
 15 ergy Act of 1954 (42 U.S.C. 2284(a)) is amended—

16 (1) in paragraph (2), by striking “storage facil-
 17 ity” and inserting “treatment, storage, or disposal
 18 facility”;

19 (2) in paragraph (3)—

20 (A) by striking “such a utilization facility”
 21 and inserting “a utilization facility licensed
 22 under this Act”; and

23 (B) by striking “or” at the end;

24 (3) in paragraph (4)—

1 (A) by striking “facility licensed” and in-
2 serting “, uranium conversion, or nuclear fuel
3 fabrication facility licensed or certified”; and

4 (B) by striking the comma at the end and
5 inserting a semicolon; and

6 (4) by inserting after paragraph (4) the fol-
7 lowing:

8 “(5) any production, utilization, waste storage,
9 waste treatment, waste disposal, uranium enrich-
10 ment, uranium conversion, or nuclear fuel fabrica-
11 tion facility subject to licensing or certification
12 under this Act during construction of the facility, if
13 the destruction or damage caused or attempted to be
14 caused could adversely affect public health and safe-
15 ty during the operation of the facility;

16 “(6) any primary facility or backup facility
17 from which a radiological emergency preparedness
18 alert and warning system is activated; or

19 “(7) any radioactive material or other property
20 subject to regulation by the Commission that, before
21 the date of the offense, the Commission determines,
22 by order or regulation published in the Federal Reg-
23 ister, is of significance to the public health and safe-
24 ty or to common defense and security;”.

1 (b) CONFORMING AMENDMENT.—Section 236 of the
2 Atomic Energy Act of 1954 (42 U.S.C. 2284) is amended
3 by striking “intentionally and willfully” each place it ap-
4 pears and inserting “knowingly”.

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